

WRITTEN STATEMENT OF
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U.S. DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT



BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON FEDERALISM AND THE CENSUS
MAY 24, 2005

TESTIMONY OF ROY A. BERNARDI
DEPUTY SECRETARY
HOUSE SUB-COMMITTEE ON FEDERALISM AND THE CENSUS
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I would like to thank the subcommittee and Chairman Turner for the opportunity to speak with you today about the Community Development Block Grant (CDBG) program. As you are well aware, the President, via his 2006 Budget, has proposed to consolidate 18 programs (from five agencies) within the Department of Commerce, including the CDBG Program. These programs would be consolidated into one new program -- The Strengthening America's Communities (SAC) Initiative. This Initiative would support communities' efforts to meet the goal of improving their economic conditions through, among other things, the creation of jobs. Therefore, under the President's proposal, the CDBG program would be eliminated. Notwithstanding, I offer the following testimony on (1) how communities spend CDBG money; (2) whether the funds are effectively targeted towards the needs identified in the program's authorizing legislation; and (3) how, if at all, these expenditures can be measured for effectiveness. We expect that recent efforts to improve the CDBG program, which I will discuss during my testimony, will inform the Administration's new SACI proposal.

HOW CDBG FUNDS ARE SPENT & TARGETING TOWARDS NEED, AS REQUIRED BY LEGISLATION

The Housing and Community Development Act of 1974, as amended, (HCD Act) authorizes the CDBG program and provides the framework for how the funds can be used. The law provides great flexibility for grantees to determine what their community development needs are, as well as the ability to set local priorities and design local programs to address those needs. The law describes the federal objectives for the use of funds, which are the development of viable urban communities by providing decent and safe housing and a suitable living environment, and expanding economic opportunities, principally for persons of low and moderate income. The law then says that, over a period of up to three years, each grantee must assure that at least 70% of the funds are used for activities that principally benefit low- and moderate-income persons. The law further sets the framework by listing eligible activities and requiring that each activity meet one of three national objectives. This gives us a two-part test on which activities may be funded. As you can see, most CDBG requirements focus on the types of activities are eligible. Communities are also given wide discretion on where to fund activities, which often results in communities spreading activities across their district which makes it difficult for the program to achieve results at the neighborhood or community level. The first activity test is found at section 105(a) of the statute and specifies that **only** the 25 activities identified in that section may be assisted. This section is quite expansive, making eligible all the activities originally eligible in the 7 categorical programs consolidated in 1974 by the CDBG program. Congress has, over the years, added

additional eligible activities or clarified how activities are eligible. For purposes of reporting on the types of activities grantees carry out each year, HUD's Office of Community Planning and Development (CPD) sorts the use of CDBG funds into seven broad categories. Those categories and the percent of funds spent for each in fiscal year 2004 by all grantees – metropolitan cities, urban counties, and states - are:

- Housing activities – 24.1%
- Public facilities and improvements – 33.1%
- Public services – 11.4%
- Economic development – 9.0%
- Acquisition – 5.5%
- Administration and planning – 14.5%
- Repayment of Section 108 loans – 2.5%

These uses have remained stable since 2001, with the largest percent of change in any category being less than two percent. HUD's web site also provides data on how each individual CDBG grantee has spent its CDBG funds, broken out by 90 different categories.

There are two additional statutory limitations that apply to specific CDBG activities. Grantees may not obligate more than 15 percent for public service activities and they may not obligate more than 20 percent for administration and planning. The public service limit was established by Congress in 1981 at 10% and raised to 15% in 1983. Previously, the law only allowed public service activities when they were integrally related with and necessary to accomplish neighborhood community development objectives. The percent cap was developed to provide a clear limit to public services. It is noted that there are 63 communities that had a higher percentage use of public services in 1982 or 1983 and they are grandfathered in at their higher percentage. The administration and planning cap was added by Congress to settle a debate on how much money is needed for administration and planning and is found in the CDBG appropriation laws.

The second activity test for CDBG is the national objective test, found at section 104. This section requires each grantee to certify that it will essentially limit its funding to activities that principally benefit low- and moderate-income persons, address or prevent slums or blight, or address a particularly urgent need. In general, activities can qualify as benefiting low- and moderate-income persons in two ways: 1) benefiting a low-income area – 51% or more of the residents of an area must be low-and moderate-income (the statute lowers this threshold for higher income grantees) or 2) benefiting persons – all funds for an activity are counted as benefiting low- and moderate-income persons if 51% or more of the beneficiaries of an activity are low- and moderate income. To qualify as low-and moderate income a family's income must be below 80% of the area median income level. As I indicated earlier, the law requires that at least 70% of each grantee's funds must be used for activities that benefit low- and moderate-income persons. Reports from our grantees show that, year after year, about 95% of the funds are used for activities that benefit low- and moderate-income persons.

While I have indicated the statutory basis for the two main components of eligibility and national objectives, HUD publishes rules in the federal register to implement these statutory requirements. We have found it necessary over the years to provide clear guidance on standards on how eligibility and particularly national objectives may be met. The regulations are found at 24 CFR Part 570.

It is important to describe how HUD determines that these requirements are met. The law describes what must be included in the application and that is found at section 104 of the HCD Act. That provision is brief. It is important to note that prior to 1981, the law required HUD to make a more qualitative, front end review of a grantee's application to determine whether the activities identified to be undertaken addressed the needs described. In 1981, Congress determined that it would be better for HUD to basically accept what the application said and concentrate its review on after the fact monitoring to be sure that requirements were met. This approach was also continued in 1990 in the Cranston-Gonzales National Affordable Housing Act. This law replaced the previously required Housing Assistance Plan for CDBG and created the Comprehensive Housing Affordability Strategy (called the CHAS) as a requirement for the newly established HOME program, as well as CDBG and many other housing related programs. This law established a more complete outline of what must be included in the submission of the CHAS, and the front-end HUD review was limited to whether this plan met the broad purposes of the law and was complete. In 1995, HUD created what is called the Consolidated Plan as a combined and coordinated application process for CPD's four formula grant programs: CDBG, HOME Investment Partnerships (HOME), Emergency Shelter Grants (ESG) and Housing Opportunities for Persons with AIDS (HOPWA), using the CHAS and the other application components.

As a result, HUD's major review focus for administration of the CDBG program is monitoring grantees' use of funds. In addition to requiring HUD to determine that grantees are carrying out their CDBG assisted activities in a timely manner, the HCD Act requires HUD to review and audit CDBG grantees to determine whether they have:

- Carried out CDBG assisted activities and certifications in accordance with the requirements and primary objectives of the Act and other applicable laws; and
- Have a continuing capacity to carry out those activities in a timely manner.

In order to implement this requirement, HUD performs risk analysis to determine which grantees to review on-site and conducts an assessment of each grantee at the end of the program year. Grantees are also required to have an annual audit pursuant to OMB Circular A-133.

The risk analysis process identifies high-risk CDBG grantees and ensures that HUD's resources are targeted to monitoring those grantees on-site. In FY 2004, about \$4.1 billion was allocated through the CDBG program. HUD performed on-site monitoring for 380 of its 1162 CDBG grantees. As a result of this program monitoring effort, HUD staff identified 465 concerns and 610 findings.

It should be noted that the regulations identify a range of corrective actions that may be used when a finding of non-compliance is made. Corrective actions recommended by HUD are to be “designed to prevent a continuation of the performance deficiency; mitigate, to the extent possible, the adverse effects or consequences of the deficiency; and prevent a recurrence of the deficiency.” Hence, the range of corrective actions identified in the regulations and the need for HUD monitors to consider each finding on a case-by-case basis in determining the most appropriate corrective action to recommend when a finding is made. Granted, advising a grantee to reimburse its CDBG program with non-federal funds always gets a grantee’s attention, but reimbursement is not the most appropriate remedy in every case.

In addition to finding and stopping improper expenditures of CDBG funds, on-site monitoring is valuable in preventing future fraud, waste, and mismanagement, as grantees are less likely to engage in statutory and regulatory violations if they know they will be monitored. The monitoring visits also provide an opportunity for grantees to receive technical assistance so they will not engage in inadvertent improper actions in the future.

There is one other program review responsibility that HUD has from the law: section 104(e)(1) of the HCD Act requires HUD to review CDBG grantees to determine if they have carried out their CDBG assisted activities in a timely manner. As a result, HUD has developed regulations that provide that an entitlement grantee will be considered to be carrying out its CDBG program in a “timely” manner if, 60 days before the start of its next program year, it has an amount of no more than 1.5 times its current grant available to be disbursed from its CDBG line of credit. While this standard has been in place since 1988, if a grantee did not meet this standard, HUD had not pursued aggressive corrective action.

By 1999, the amount of CDBG funds remaining unexpended in grantees’ lines of credit due to the lack of timely expenditures was a growing concern to HUD, as well as to Congress and the Government Accountability Office (GAO). In early 1999, there were over 300 untimely grantees. The number of untimely grantees and the amount of funds unexpended appeared to be continuing to grow. Failure of grantees to meet the standard means that low and moderate income persons are not benefiting from the availability of these funds. Therefore, as then Assistant Secretary for CPD, I established a grant reduction policy for untimely CDBG grantees that was announced in the fall of 2001.

The policy operates as follows: when a grantee is first identified as untimely based on its 60-day test, it has one year (until the next 60 day test) to become timely. If, at the next 60 day test, the grantee again fails to meet the 1.5 standard, it will have its next grant reduced by an amount equal to that by which it exceeded the 1.5 standard, unless HUD determines that the untimeliness was due to factors beyond the grantee’s control.

Implementation of the timeliness policy has been extremely successful, resulting in significant reductions in both the number of grantees that are currently untimely – from over 300 to approximately 60, as well as the amount of CDBG funds above the 1.5 standard that is undisbursed in grantees’ lines of credit – from a high point of \$370

million, now down to roughly \$30 million. The success of the policy is also evidenced by the fact that only a few grantees actually face a potential grant reduction each year (approximately 5 per year), and only a few grants have actually been reduced because of a grantee's failure to meet the standard. Grantees have been working more diligently to complete activities in a timely manner and have improved the management of their use of funds by reprogramming funds from slow-moving or delayed activities to one or more other eligible activities that are ready to go. This is a win-win for HUD, the grantee, and low- and moderate-income persons being assisted.

HOW CDBG FUNDS ARE MEASURED FOR EFFECTIVENESS

CDBG grantees have long reported on their use of funds and most have reported the number of beneficiaries of such use. For many years in the 1990's, a HUD contractor input data from hard copies of Grantee Performance Reports (GPRs) into a database that allowed HUD to aggregate information on the use of funds at the national level, generally for the purpose of reporting to Congress.

HUD introduced use of the Integrated Disbursement and Information System (IDIS) for reporting on CPD's four formula programs in 1996. Grantees enter information directly into IDIS on the activities they carryout with their CDBG funds and the accomplishments they achieve, by activity. Also, because CDBG funds are drawn through IDIS, information on funds disbursed, by activity, is readily available. The concept of IDIS was and is a great idea: it links financial information, i.e., amount of funds used, with actual accomplishments. It provides "real-time" information on a grantee's program: grantees can input data regularly and it is immediately available to HUD, rather than HUD receiving a single document from each grantee approximately 90 days after the end of the grantee's program year. But, as could be expected with such an ambitious undertaking, the development and implementation of this great idea has experienced many difficulties and growing pains since 1996. For one thing, in HUD's rush to move the system into operation, HUD chose to use a tested but dated computer program language. That legacy platform has made the system very difficult to change and update, frustrating both HUD and our grantees.

Obtaining consistency in reporting and improving the quality of the data on CDBG activities in IDIS has taken years because of both the large number of grantees and the large number of activities that may be assisted under the CDBG program. The flexibility of CDBG is of great importance to grantees because it allows them to use the funds in so many different ways to address their needs. However, that flexibility also created difficulty in getting consistency in accomplishments reported by individual grantees, but HUD has made a concerted effort to address data quality in recent years.

Beginning in late 2001, HUD initiated an IDIS data clean-up effort that, while still on going, resulted in great improvements to data during 2003 and 2004. HUD has also added edits to IDIS to help prevent grantees from entering inaccurate CDBG data, and issued written guidance for grantees on reporting CDBG accomplishments in IDIS. This

was done primarily to help achieve better on-going consistency in reporting on the various types of activities eligible to be assisted and to help grantees avoid double-counting of accomplishments. These actions have improved the information available in IDIS on the outputs achieved by grantees' use of CDBG funds. Information on the activities for which CDBG funds have been disbursed and accomplishments achieved are now available, grantee by grantee and in national profiles, on HUD's website.

HUD has contracted for the development of a more user-friendly IDIS, e.g., web-based vs. mainframe, that will be more easily navigated by users and revised by HUD, as needed, and will improve HUD's data aggregation capabilities. This is a two-phase effort and we plan the first phase to be ready to roll out by the winter of 2006. This will represent a huge step forward in modernizing our information system. Beyond that is a phase two improvement that will fully integrate the front-end application process and the completion or reporting phase.

While this discussion has focused on HUD's statute and regulations, recent efforts have focused more on the results and outcomes of these program dollars for communities. In January 2003, CPD began an effort to encourage the development of performance measurement systems by the recipients of CPD's four formula grants: CDBG, the HOME Improvement Partnership Program (HOME), Emergency Shelter Grants (ESG), or Housing Opportunities for Persons with AIDS (HOPWA). During this process, input was solicited from throughout HUD, including CPD field offices, and from public interest groups to develop a CPD Notice that would promote performance measurement.

Because the CPD formula block grant programs promote maximum flexibility in program design and since the use of these funds is driven by local choice, HUD believed that performance based measurement systems should be developed at the state and local level. For CPD's broad-based formula grant programs, this offered new opportunities to integrate grantees' program evaluation responsibilities, program flexibility, and a need to nationally evaluate program performance in addressing broad national goals and issues.

Reporting some program performance is not new to grantees; however, moving toward more outcome-oriented measures will be a shift for most CDBG grantees. Grantees regularly monitor their outputs and report them to HUD. The outputs are measured in terms of what is produced (i.e. housing units, jobs created, persons served). The CDBG program requires that each grantee submit a Consolidated Annual Performance and Evaluation Report (CAPER) that describes the use of CDBG funds, together with an assessment by the grantee of the relationship of the use of their formula funds to the objectives identified in the grantee's Consolidated Plan. The CDBG accomplishments and disbursements are reported to HUD in the Integrated Disbursements and Information System (IDIS) and are available to the public on HUD's CDBG website.

CPD Notice #03-09 was issued in September 2003 to every program grantee. The notice stated the rationale for radically improving our efforts in performance measurement. The

notice served as a comprehensive introduction to the concept of performance measurement and also described the benefits of substantiating results. It provided information to help grantees begin developing their own local systems and gave examples of common outcomes that grantees might be able to use for their own activities. The notice also asked that grantees report their status in using or developing a performance measurement system and so far, 246 grantees have reported using such systems and 225 are developing systems. This combined number indicates that about 43 percent of all CDBG grantees are in some stage of being able to show the results of their CDBG program expenditures. Thus, much work remains.

Following the issuance of the notice, a working group of stakeholders, organized by the Council of State Community Development Agencies (COSCDA) and made up of grantee representatives from key national housing and community development associations, as well as HUD and the Office of Management and Budget (OMB), began working to develop outcome measures for the CPD formula block grant programs. The effort, which began in March 2004 and continued until November, formed the basis for a proposed outcome performance measurement system. We will be publishing a notice with the proposed system in the Federal Register shortly. The publication solicits input and comments, particularly from grantees, on the implementation of this system and its inclusion in IDIS.

The proposed outcome performance measurement system has three overarching objectives: (1) Creating Suitable Living Environments, (2) Providing Decent Affordable Housing, and (3) Creating Economic Opportunities. There are three outcomes under each objective: (1) Availability/Accessibility, (2) Affordability, and (3) Sustainability. Thus, the three objectives, each having three possible outcomes, will produce nine possible “outcome/objective statements” within which to categorize the formula grant activities. Grantees will complete an outcome/objective statement in IDIS by entering data in the form of an output indicator. The system also provides enriched data that will allow grantees and HUD to tell a more complete story on the results of the formula funding. The goal is to have a system that will aggregate results across the broad spectrum of the formula grant programs at the city, county and state levels. Such a system is necessary for HUD to be able to demonstrate how activities, funded by the CPD formula programs, achieve department-wide goals in housing, community development, and economic development. There are numerous and mutually valid ways to measure performance, and the system developed by the working group maintains the flexibility of the block grant programs, as the objectives were determined by the grantees based on the intent of the project and activity. While program flexibility is maintained, the system offers a specific menu of objectives, outcomes and indicators so that reporting can be standardized and the achievements of these programs can be aggregated to the national level.

“Developing Performance Measures for the Community Development Block Grant Program,” a report prepared by a Panel of the National Academy of Public Administration (NAPA) for HUD’s Office of Community Planning and Development, was released in February 2005. The report emphasized that adopting a performance

measurement system for CDBG is a daunting task, and recognized the work being done by the stakeholders in the working group and endorsed that initiative.

The NAPA report also acknowledged that it is extraordinarily challenging to craft a performance measurement system for the CDBG program, as well as other block grants, which promote flexible investment in people, places, and organizations, based on locally determined needs. Developing and implementing such a system involves reconciling conflicting views about what should be accomplished locally and what national goals might be, given the statutory flexibility of the program. Moreover, practical and technical issues must be resolved. The report said that perhaps the most important challenge is to distinguish between performance information that can be realistically reported by state and local grantees, and the net impact information that only nation-wide studies can produce.

Also, to help community development grantees better assess their performance in carrying out community development programs, HUD's Office of Policy Development and Research commissioned a report to identify and document promising performance measurement practices in a small number of jurisdictions. Five communities that have developed systems to measure and assess performance were studied. They are very different in terms of jurisdiction size, community development objectives, and experience with performance measurement. The report also stated that community development is among the most difficult of enterprises in which to gauge success, mirroring the NAPA statement; however, the report concluded that both the agencies that administer programs and the communities that benefit from them will be better off with good performance data and informed decisions based on that information. The report then provided detailed descriptions of the methods each of the jurisdictions use to show results.

CONCLUSION

These hearings have focused attention on CDBG, and on how best to deliver increasingly limited federal dollars for community and economic development for the greatest results. The two things I believe we must do are face the question of how to increase the formula and local targeting of community development funds to areas of greatest need and continue to make advances in performance measurement. The Administration is committed to improving the way we track performance and show results either through the CDBG program or the proposed Strengthening America's Communities Initiative. We can and must continue to improve and do better. I am pleased to have had the opportunity to meet with you, I thank you for your time and support of our efforts, and I look forward to your questions and suggestions.